



Docket No. 740165-279

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Bunji INAGAKI et al.

Serial No. 09/752,836

Filed: January 3, 2001

For: VEHICLE MIRROR ASSEMBLY
AND METHOD FOR ASSEMBLING
THE SAME

)

) Group Art Unit: 2872

) Examiner: Mark A. Robinson

) Confirmation No. 9926

) Date: August 21, 2003

#12/11/03
BUT
9/4/03

CERTIFICATE OF MAILING OR TRANSMISSION
[37 CFR 1.8(a)]

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage for First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 21, 2003.

Signature: _____

Name:

Karin Jacobsen

APPLICANTS' REPLY BRIEF PURSUANT TO 37 CFR § 1.193(b)(1)

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit the following reply specifically directed to paragraph 1 of the Examiner's Answer mailed July 16, 2003.

In paragraph (11), the Examiner equates the tubular rivet (75) disclosed in the Polzer '480 patent onto the "stand" of a "retracting unit" recited in claim 1. For reasons given hereinafter, applicants submit that no person of ordinary skill in the automotive arts would read the "stand" of claim 1 onto such a rivet.

Claim 1 recites a vehicle mirror assembly that comprises a mirror, a mirror visor, a bracket "accommodated within the mirror visor"; a door mirror stay "adapted to be connected to the door of the vehicle" and "a retracting unit having a stand and a rotating portion connecting said bracket to said door mirror stay". *Webster's Ninth New Collegiate*

RECEIVED
AUG 27 2003
TECHNOLOGY CENTER 2800

Dictionary (1985) page 1148, defines stand as “a frame on or in which something may be placed for support.” In the specification, the recited “stand” refers to platform 18, which rotatably supports a box-like rotation portion 20 (see Figure 1). Hence, the term “stand” in claim 1 is used in its commonly accepted mechanical sense.

In view of the foregoing, the Examiner’s “Response to Argument” in paragraph (11) of his Answer is fatally flawed. MPEP §2111.01 mandates, that “when not defined by applicants in the specification, the words of a claim must be given their plain meaning. In other words, they must be read as they would be interpreted by those of ordinary skill in the art”. Hence, instead of construing the term “stand” in the mechanical sense as a frame on which something may be placed for support,” the Examiner construes the term “stand” far more generally as something “up right”. He then goes on to argue that:

“Polzer’s tubular rivet (75) is considered as the ‘stand’.
Note that this rivet (75) is generally upright as shown in
the top-down view of Figure 2...”.

Applicants submit that no person of ordinary skill in the art would construe the rivet (75) shown in the Polzer ‘480 patent as the recited “stand”, as the rivet clearly does not provide any type of frame for supporting anything. Rather, the rivet (75) in combination with the bolt hole (12) in the plate extension 10 of the Polzer ‘480 patent merely provides a pivotal joint between the plate extension 10 and the arm 9 of the mirror base 2. For all these reasons claim 1 is clearly patentable over the Polzer ‘480 patent.

Claims 3 through 6 are patentable at least by reason of their dependency upon claim 1.

As independent claims 15 and 21 expressly recite the step of “mounting the stand of the retracting unit to a door mirror stay to mount the vehicle mirror assembly to the door of the vehicle...”, claims 15 and 21 are each clearly patentable over the Polzer ‘480 patent for the same reasons given with respect to claim 1.


As claims 16-20 are dependent upon claim 15, these claims are likewise patentable for at least the reasons given with respect to claim 1.

Finally, while independent claim 7 does not recite that the retracting unit has a stand

and a rotating portion, it does recite the method steps of “mounting the retracting unit to the bracket” and then “mounting the retracting unit to a door mirror stay to mount the vehicle mirror assembly to the door of a vehicle.” Applicants submit that, in the context of claim 7, a person of ordinary skill in the art would continue the term “retracting unit” as separate joint, and would further construe these method steps to read that a portion of this joint is first mounted to the bracket of the mirror assembly, and then another portion of this joint is mounted to the door mirror stay on the vehicle. Contrary to the Examiner’s position, this is not the same as the single step of riveting a mirror assembly plate extension to an arm of a mirror base on the vehicle to create a pivotal joint. In short, it is unreasonable to construe the “retracting unit” cited in claim 7 as reading on the rivet (75) disclosed in the Polzer ‘480 patent, as the Examiner has done. For all these reasons, claim 7 is patentable over the Polzer ‘480 patent.

As the remaining claims 8-14 are dependent upon claim 7, these claims are patentable for at least the reasons given with respect to claim 7.

Respectfully submitted,



Thomas W. Cole

Registration No. 28,290

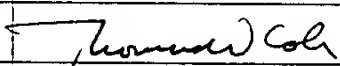
NIXON PEABODY LLP
8180 Greensboro Drive, Suite 800
McLean, VA 22102
(703) 770-9300

01
AUG 22 2003
PATENT & TRADEMARK OFFICE

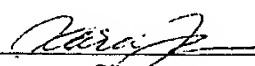
AF 728 72

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/752,836
		Filing Date	January 3, 2001
		First Named Inventor	Bunji INAGAKI et al
		Group Art Unit	2872
		Examiner Name	Mark A. Robinson
Total Number of Pages in This Submission		Attorney Docket Number	740165-279

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Declaration and Power of Attorney <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Application Data Sheet <input type="checkbox"/> Request for Corrected Filing Receipt with Enclosures <input type="checkbox"/> A self-addressed prepaid postcard for acknowledging receipt <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 for the above identified docket number.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Thomas W. Cole, Reg. No.: 28,290 Nixon Peabody LLP 8180 Greensboro Drive Suite 800 McLean, VA 22102
Signature	
Date	August 21, 2003

RECEIVED
 AUG 27 2003
 TECHNOLOGY CENTER 2800

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]	
I hereby certify that this correspondence is being:	
<input checked="" type="checkbox"/> deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop <u>Appeal Brief-Patents</u> , Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450	
<input type="checkbox"/> transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) _____	
August 21, 2003 Date	 Signature Karin Jacobsen